IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

TUESDAY, THE 7TH AUGUST 2007 / 16TH SRAVANA 1929

Con.Case(C).No. 567 of 2007(S)

ARISING OUT OF THE JUDGEMENT IN WPC.5468/1998 Dated 07/09/2005
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PETITIONERS/LEGAL HEIRS OF THE PETITIONER:
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1. G.V.MADHVANKUTTY,
S/O.VELAYUDHAN PILLAI, AGED 59,
VATTAVILAKATHU VEEDU, T.C.41/19, MANACAUD P.O.,
TRIVANDRUM.

2. T.V.THULASI, D/O P.THANKAMMA, AGED 55,
VATTAVILAKATHU VEEDU,
T.C.41/19, MANACAUD PO, TRIVANDRUM.

BY ADV. SRI.G.S.REGHUNATH

RESPONDENT/2ND RESPONDENT:

SHRI.G.SUDEV,
S/O.NOT KNOWN TO THE PETITIONERS, AGED NOT KNOWN
TO THE PETITIONERS, EXECUTIVE ENGINEER,
KERALA WATER AUTHORITY, OFFICE OF THE EXECUTIVE ENGINEER,
VELLAYAMBALAM, TRIVANDRUM.

BY ADV. SMT.AMBIKA DEVI, SC, KWA

THIS CONTEMPT CASE (CIVIL) HAVING BEEN FINALLY HEARD ON 07/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN, J.

Cont.Case (C)No.567 of 2007

Dated, this the 7th day of August, 2007

JUDGMENT

K.T.Sankaran, J.

As per Annexure A1 judgment in O.P.No.5468 of 1998 dated 7.9.2005, the writ petition was disposed of directing the petitioner therein to make a representation to the second respondent and further directing the said respondent to dispose of the representation within a period of four months from the date of production of a copy of the judgment. This contempt case is filed alleging that Annexure A1 judgment was not complied with and there was wilful and deliberate non-compliance of the directions issued by this Court.

(2) A counter affidavit has been filed by the respondent. It is stated therein that the representation submitted by the petitioner was received by him only on 7.12.2005. Thereafter a notice was issued to the petitioner and discussion was held and in that discussion it was decided to settle the matter amicably.

(3) Later, since the petitioner did not co-operate, an order dated 20.7.2007 was passed disposing of the representation filed by the petitioner. In the order dated 20.7.2007, it is stated thus:

> "The petitioner, inspite of all efforts of Kerala Water Authority, did not turn up or gave any letter to Kerala Water Authority. Instead, he moved the Hon'ble High Court on grounds of contempt of court on the part of Executive Engineer, P.H.Division, K.W.A., Trivandrum."

It is also stated in the order that the Assistant Executive Engineer of Kerala Water Authority has converted the consumer No.149/D from 1992 to 1996 to

non-domestic category as per rules. This decision was not challenged by the petitioner. It is also stated that the petitioner on his own method calculated the charges and tried to pay the same which was not accepted by the Kerala Water Authority.

(4) In compliance with the judgment dated 7.9.2005, the representation filed by the petitioner has now been disposed of by the order dated 20.7.2007. It is also submitted by the respondent that the delay in disposing of the representation was in the facts and circumstances mentioned in the counter affidavit. The respondent has also tendered unconditional apology.

(5) In the facts and circumstances of the case it cannot be said that there was wilful and deliberate non-compliance of the directions issued by this Court. If the petitioners are aggrieved by the order dated 20.7.2007, it is open to them to challenge the same in appropriate proceedings. Without prejudice to the contentions of the petitioners on the merits of the case and without prejudice to the right of the petitioners to challenge the order dated 20.7.2007, this contempt case is closed.

(**H.L.DATTU)**
CHIEF JUSTICE

(K.T.SANKARAN)
JUDGE

vns